

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

In re KAHLIL ALI TOMLIN

on Habeas Corpus.

B207678

(Los Angeles County
Super. Ct. No. BA187683)

ORDER MODIFYING OPINION
AND DENYING REHEARING
(NO CHANGE IN JUDGMENT)

THE COURT:

It is ordered that the opinion filed herein on April 22, 2009 be modified as follows:

On page 9, footnote 7, following the language now in the opinion, add:

“In light of the express requirement that the defendant’s criminal history consist of either multiple prior adult convictions or sustained juvenile petitions or a conviction for which the defendant served a term in state prison, we reject the People’s contention a single sustained juvenile petition, without more, may be recognized as an aggravating factor under rule 4.408(a). As discussed below, however, the nature or circumstances of the prior offense (adult or juvenile) may be considered in evaluating whether to impose an enhanced sentence provided the court’s determination is consistent with the defendant’s constitutional right to a jury trial.”

There is no change in judgment. Respondent’s petition for rehearing is denied.

PERLUSS, P. J.

ZELON, J.

JACKSON, J.